

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (16-026)**

**Subject**

Initiative petition from Stacy Shore regarding a proposed constitutional amendment to Article IX. (Received February 9, 2015)

**Date**

March 2, 2015

**Description**

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November 2016.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, and the **St. Louis Community College**.

**Assumptions**

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated:

This would place all instructionally related federal funding at risk. At a minimum, this would likely disqualify the state for all major ESEA (Elementary and Secondary Education Act) and IDEA (Individuals with Disabilities Education Act) Part B funds. ESEA Title I requires state standards and state assessments at specified grade levels and places requirements related to highly qualified teachers; Title II places further requirements on teacher qualifications and IDEA adopts the language of highly qualified teachers as defined in ESEA and places it in IDEA with the same requirements.

The following provides a listing of FY 15 grants and the corresponding award amount:

Grant Name	Award Amount (FY 15)
Title I, Part A	\$236,775,778
Title I, Part C	\$1,499,152
Title I, Part D	\$2,831,190
Title II.A	\$38,521,502
Title III, Part A	\$5,287,728
Title VI.B	\$3,226,330
Title I SIG	\$7,758,008
Title II.B	\$2,518,642
Title X, Part C	\$1,046,820
Charter Schools Planning and Implementation Program	Allowed amount determined by USDE
Advanced Placement Program Test Fees	\$12,104
Part B	\$224,294,599
Part B (ECSE)	\$5,544,843
Part C	\$7,797,120
SPDG	\$1,412,000
Deaf/Blind	\$197,129
School Nutrition Services	\$293,925,900
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	\$832,648,845

Officials from the **Department of Higher Education** indicated they have determined it would not have a direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their agency.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department.

Officials from the **Department of Social Services** indicated the total estimated costs for salaries, fringe benefits, and expense and equipment will be \$4,842,284 for fiscal year 2016, \$5,915,558 for fiscal year 2017, and \$6,022,591 for fiscal year 2018.

This is an initiative petition for a proposed amendment to Article IX, Section 2(b) of the Missouri Constitution and for a new Section 2(c). Section 2(b) is amended to limit the authority of the board of education and the commissioner of education to (1) researching and offering opinions on the most effective ways of educating students, (2) assessing and reporting on the quality and performance of public schools and (3) offering recommendations and training to improve performance of public schools. Section 2(c).1 is added to provide that each public school district is independent from state control and shall be governed by elected school board members for each district. Section 2(c).2 is added to provide that each school district shall be exclusively responsible for (1) deciding qualifications for teachers and administrators, (2) setting the curriculum and graduation standards in each district and (3) selecting and purchasing all materials for each district. Section 2(c).3 prohibits the General Assembly from penalizing or withholding funds from a school district that exercises its authority under this section.

This proposed constitutional amendment primarily affects the Department of Elementary and Secondary Education (DESE) by limiting the authorities of the State Board of Education and the Commissioner of Education. Section 161.092 RSMo authorizes the State Board of Education to adopt and establish rules relating to the accreditation of school districts. Section 161.122 RSMo provides for the commissioner to supervise DESE. The proposed constitutional amendment will cause many of the rules contained

within Title 5 of the Missouri Code of State Regulations to be declared void. DESE will therefore be unable to enforce many of its current rules.

The Division of Youth Services (DYS) requires approval of its educational programs by DESE under Section 219.056 RSMo. Because DESE will no longer be authorized to approve DYS educational programs, DYS will no longer be able to function as a school district. As a result, the DYS will no longer be able to provide accredited education services and will have to rely upon local school districts to educate the youth in its custody.

The academic program currently operated within DYS is a critical element of the division's nationally recognized developmental treatment approach for delinquent youth. Youth committed to DYS typically arrive with a markedly unsuccessful history in their traditional public schools. DYS employs a model that emphasizes pursuit of educational goals within the context of, and with sensitivity to the unique treatment needs of each youth. DYS education staff receives comprehensive specialized adolescent care training focused on treatment. They are critical members of the treatment team serving DYS youth. DYS has learned through history and experience that a fully integrated treatment and educational approach yields the most successful outcomes for this population of youth. The division has long been aware that educational accomplishment is a key variable in achieving and sustaining positive outcomes. This model is a key contributor to creating healthier and more productive lives for our youth and their families while at the same time creating safer communities for all Missouri citizens.

Enactment of this amendment would cause DYS to eliminate its specialized educational services and revert to employing a model that historically has been unsuccessful and undoubtedly would substantially and negatively alter the outcomes of youth served by the division.

DYS receives reimbursement through a State Plan Amendment for rehabilitative treatment services to youth. In the current integrated treatment/education programming a certain amount of treatment activity takes place through the course of a school day. DYS directs the workforce and their schedules. This provides flexibility and allows DYS to prioritize, when appropriate, necessary treatment activities while ensuring that academic progress in each area is not compromised. Introducing an education scheme that does not fully integrate treatment and education will compromise this flexibility and will negatively impact the amount of timely and effective treatment interventions that take place during a school day. This impact will affect the volume of rehabilitative activities occurring during school time thus affecting not only youth outcomes but also the amount of reimbursement for such activities through the Medicaid state plan amendment. The reimbursement is determined by a time study and therefore would only be able to be quantified if this amendment was passed and changes occurred.

The (DYS) receives aid from DESE pursuant to Section 163.073 RSMo. This aid includes federal funding for particular programs: Title I (\$949,591 FY 14), Special Education (\$279,211 FY14) and Perkins Vocational Education (\$103,730 FY14). The

division also receives foundation formula funding from DESE (\$4,391,660 FY 14). The division receives the local tax effort funding from the home school district of the legal guardian as well (\$3,824,907 FY 14). These funds would no longer be received however, would be redirected to other school districts.

The division would no longer employ educational staff (137 FTE). However the only cost savings associated with this reduction in FTE is the General Revenue portion (\$1,353,616) as the federal and other funds would be redirected as referenced above.

DYS education personnel, because of their training and expertise, are qualified to provide supervision and are counted as such for staffing requirements. A reduction in these staff would result in the need for 86 new Youth Specialists (\$3,718,587) as school district employees could not be considered in meeting DYS staffing/supervision requirements. As stated previously, the division cannot be sure of the rehabilitative services provided during the school day, therefore the funding for the additional 86 FTE will be 100% General Revenue.

DYS, as an educational provider, participates in the USDA's free and reduced meal program. The division would lose the USDA federal funding (\$1,072,973 FY 14) currently received to support the provision of breakfast and lunch to its students. The division would still provide the same number of meals to youth, therefore the loss of federal funds would necessitate an increase in general revenue of \$1,072,973. The Division will also need an estimated \$2,000,000 for continued educational supplies as needed for DYS youth and classroom furnishings.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact to their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no impact on the operations of their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain

amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated \$1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost \$1.1 million to publish (an average of \$122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this has no fiscal impact for the city.

Officials from **Metropolitan Community College** indicated this has no financial impact on their college.

The State Auditor's office did not receive a response from the **Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School**

**District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri, and St. Louis Community College.**

### **Fiscal Note Summary**

The proposal could risk the state's eligibility to receive federal education funds of approximately \$800 million annually. Increased annual costs for schools operated by a state agency are estimated at approximately \$6 million. Local schools would be impacted by any lost federal funding.